

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

AFFIRMATION IN REPLY

- against -

Indictment No. 07 Crim. 732

OSCAR LEMUS,

Defendant.

=====X

CHRISTOPHER RILEY, an attorney duly admitted to practice law before the courts in the State of New York, hereby affirms the following under the penalties of perjury:

1. Your affirmitant is the attorney for the defendant Oscar Lemus herein and I make this affirmation in reply to the opposition by the prosecution to defendant's motion for omnibus relief.

2. The original Indictment herein was filed on August 8, 2007, a copy of which was attached to Exhibit "A" to defendant's moving papers. Subsequently, by Notice of Motion dated October 4, 2007, defendant moved for certain omnibus relief. Thereafter, a Superseding Indictment was filed on November 19, 2007. A copy of said Superseding Indictment is attached hereto as Exhibit "G".

3. While the prosecution in its opposition papers refers to an unredacted form of the June 12, 2007 report, attached hereto as Exhibit "H" is a copy of same. It is clear therefrom that same is substantially redacted.

4. Subsequent to the making of the initial motion, the prosecution provided us further discovery, a copy of download from defendant's cell phone, which cell phone had been taken from defendant without his consent at the time of arrest. A copy of the information relating to the

download from the cell phone which was provided by the prosecution is attached hereto as Exhibit "I".

5. Inasmuch as it was only after defendant made defendant's initial motion that defendant received this information, at the time of the motion no application was made to suppress the information downloaded.

WHEREFORE, your affirmant respectfully requests an Order of this Court granting the omnibus relief herein requested, together with such other and further relief as this Court may deem just, proper and equitable.

Dated: White Plains, New York
December 6, 2007

CHRISTOPHER RILEY (CR-0975)